

DRAFT MINUTES
Regular Meeting
Commission on Local Government
10:00 a.m., January 11, 2010
The Virginia Housing Center
Henrico Room 2
4224 Cox Road
Glen Allen, Virginia

Members Present

Harold H. Bannister, Jr., Chairman
Wanda C. Wingo, Vice-Chairman
Cole Hendrix
Vola T. Lawson
Kathleen K. Seefeldt

Members Absent

Staff Present

Susan Williams, Local Government Policy Manager
Steve Ziony, Principal Economist
Matthew Bolster, Senior Policy Analyst

Call to Order

Commission Chairman Vola T. Lawson called the meeting to order at 10:06 a.m. on January 11, 2010 in Henrico Room 2 at the Virginia Housing Center in Glen Allen, Virginia. Mrs. Lawson congratulated Mr. Hendrix on his recent appointment by Governor Kaine and welcomed him to the Commission.

I. Election of Officers

Mrs. Seefeldt nominated Mr. Bannister for Chairman, such nomination was seconded by Mrs. Wingo, and the Commission unanimously elected Mr. Bannister as Chairman for 2010. Mr. Bannister nominated Mrs. Wingo for Vice-Chairman, such nomination was seconded by Mrs. Seefeldt, and the Commission unanimously elected

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Mrs. Wingo as Vice Chairman for 2010. **[Mr. Bannister assumed the Chair at this point in the meeting.]**

Ms. Williams then asked to be recognized by the Chairman for the purpose of making an announcement. Ms. Williams indicated that it is with much regret that she announces the resignation of Mr. Bolster from his position as senior policy analyst to the Commission. The Commission joined Ms. Williams in expressing appreciation for Mr. Bolster's outstanding work and wishing him well in his future endeavors. Mrs. Lawson then asked that a resolution recognizing Mr. Bolster's dedicated service to the Commission be prepared for consideration at the Commission's next regular meeting.

Mr. Bannister inquired as to the status of recruitment efforts with regard to this position, and Ms. Williams indicated that the position has been posted for hiring with an application deadline of February 10.

II. Town of Grottoes – County of Augusta Proposed Voluntary Settlement Agreement

Mr. Bolster presented the draft report on the Town of Grottoes – County of Augusta Proposed Voluntary Settlement Agreement. The draft report was emailed to the Commission members participating in the review of the agreement for their review and comment on December 22, 2009, and a hard copy was mailed to them the following day. Mr. Bolster led members through the draft report, highlighting various sections, including the scope of review; general characteristics of the town, county and area proposed for annexation; and the interests of the town, county and area proposed for annexation as well as the Commonwealth. Mr. Bolster stated that, as explained in the standards for review section of the draft report, the Commission is directed by law to review negotiated

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interlocal agreements such as this one prior to their presentation to the courts for ultimate disposition. Upon receipt of notice of such a proposed agreement, the Commission is directed to “hold hearings, make investigations, analyze local needs” and to submit a report containing findings of fact and recommendations regarding the issue to the affected local governments. Mr. Bolster explained that, with respect to a proposed agreement such as this one negotiated under the authority of Va. Code §15.2-3400, the Commission is required to determine “whether the proposed settlement is in the best interest of the Commonwealth.”

Mr. Bolster then presented the following draft findings and recommendations to the members for their consideration:

Findings and Recommendations

In the preceding sections of this report, the Commission has reviewed a proposed voluntary settlement agreement on annexation negotiated by the Town of Grottoes and Augusta County. The Commission has considered how the agreement will affect each jurisdiction. Based upon that review, we find that the agreement promotes the viability of both jurisdictions and is consistent with the best interests of the Commonwealth. Accordingly, we recommend the court’s approval of the agreement, subject to resolution of the following issues and ambiguities.

Agreement

The agreement submitted for the Commission’s review erroneously and interchangeably refers to an “annexation agreement” and an “agreement defining annexation rights” but properly references Code of Virginia § 15.2-3400 pertaining to voluntary settlement agreements, the code section pursuant to which the agreement was negotiated. We recommend that the agreement be amended to properly refer to a “voluntary settlement agreement.”

Acreage of Area Proposed for Annexation

The voluntary settlement agreement and all supporting documents refer to the annexation area as constituting 99.338 acres. However, this figure excludes a parcel of 0.151 acres, designated Parcel 29-A-6C on the plat appended to the agreement (see Appendix A to this report). This small parcel is considered part of the Grand Caverns

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Park property and is also under Town ownership. Other maps in the Joint Notice indicate, and the Town confirms, that the 0.151-acre parcel was also intended to be part of the annexation area. Inclusion of the parcel increases the total area to 99.489 acres.

Contiguity of Area Proposed for Annexation

Based on information provided by the Town to date, it is questionable whether the area proposed for annexation is actually contiguous to the existing corporate limits. A historical map from 1953 (see Appendix C), 1964 U.S. Geological Survey base map data, and county geographic information system data consolidated by the Central Shenandoah Planning District Commission indicate that the corporate line runs along the east side of the Route 825 (South River Road) right-of-way. However, the plat appended to the agreement indicates that Parcel 6C, at most, touches the west side of this right-of-way. Furthermore, the most recent maps provided by the Town and oral testimony indicate that the Town intends for a triangle of property between Route 825 and the South River, including the undeveloped “paper street” right-of-way labeled Shenandoah Avenue, to be included in the annexation area. The Town operates under the assumption that the triangle is part of the park property. Analysis of the metes and bounds description of the park property, however, casts doubt on whether this is the case.

In the Commission’s opinion, the final annexation area should be contiguous to the existing corporate limits without leaving any interstices or isolated unincorporated pockets. To that end, we recommend that the parties revise the annexation area description to explicitly include the aforementioned triangle of land between the South River and the existing corporate line along the east side of Route 825, southward to the intersection with Route 844. In addition, we recommend that the annexation area description be revised to include Parcel 6C, subject to the concern discussed in the next paragraph.

Street and Bridge Maintenance Responsibility

As noted in a previous section of this report, VDOT will require the Town to take over maintenance of all secondary roads within any area that it annexes. If the Town annexes the triangle of land described above, it will be required to maintain approximately 710 linear feet of Route 825 (an estimated 0.27 lane miles). At the current payment rate of \$17,075 per lane mile for minor arterials, the Town can expect to receive an increase of \$4,592 per year from VDOT as compensation for this added maintenance burden, which represents only a 0.62% increase in lane mileage under Town maintenance. The Commission also notes that Parcel 6C may include a portion of the Route 844 bridge over the South River. VDOT expects municipalities with maintenance responsibility for bridges to strictly comply with National Bridge Inspection Standards regarding frequency of inspection and load posting requirements, and may elect to withhold street payments from a municipality for delinquent or inadequate bridge inspection reports. VDOT does not provide additional payments for bridge maintenance; such work must be funded out of the regular payments based on lane mileage. Therefore,

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the Town should consider whether it wants to assume maintenance responsibility for the bridge over the South River, and if not, exclude the bridge from the annexation area.

Definitive Survey Plat

To resolve the issues discussed above and to achieve complete clarity regarding the revised corporate limits of the Town, the Commission recommends that the parties commission a new survey that depicts all relevant data, including the park property boundary, the existing corporate limits, and property lines in the triangle and bridge areas. Such a survey may not necessitate any new fieldwork, just a compilation of existing data of record. With an accurate survey plat in hand, the parties can then definitively establish the boundaries of the area proposed for annexation, and revise the information in the voluntary settlement agreement accordingly.

Next, Mr. Bolster presented the following statement from the draft report that would precede members' signatures at the end of the final report:

The Commission on Local Government acknowledges the considerable effort devoted by officials of the Town of Grottoes and Augusta County to the negotiation of the agreement currently before us. While proposing the recommendations set forth above, we commend the officials of the two jurisdictions for their public leadership and for the interlocal agreement which they have negotiated.

Mrs. Lawson suggested that a sentence be added to the "Operation of Grand Caverns Park: Fiscal Data" section of the report suggesting that the Town may want to confer with successful park authorities in other areas of the Commonwealth for additional guidance regarding the operation of such an enterprise.

Ms. Williams asked that the word "never" in the last sentence of the second paragraph under the heading "Operation of Grand Caverns Park: Fiscal Data" on Page 7 of the draft report be changed to "rarely."

Mr. Bannister asked that Footnote 33 on Page 7 of the draft report be revised to indicate that the five operating revenue dimensions and twelve operating expenditure categories referenced in the text of the report refer to the categories in Table 7 which are highlighted.

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Mr. Bannister then asked that the aerial photograph depicting the annexation area, which accompanied the submission by the parties [i.e., Exhibit M-4] be included as an appendix.

Ms. Williams stated that the designated officials from the Town and County were informed that the Commission would be meeting today to consider the draft report on their proposed voluntary settlement agreement. She added that neither locality indicated an intention to attend the meeting. Ms. Williams reported that she emailed the draft report to the designated Town and County officials on January 8. While she received no response from the Town, the County attorney responded via email in which he forwarded comments from several local government officials and asked that their suggestions be considered. Ms. Williams provided a copy of the email to the members and then presented the suggestions. As a result, the Commission agreed to make two additional changes to the report.

First, the Commission agreed to revise the last two sentences in the first paragraph on Page 10 to state:

“The department of about 57 volunteers, assisted by full-time professionals from the Rockingham County Department of Fire and Rescue and the Augusta County Department of Fire and Rescue, already serves an area that stretches eight miles south of Grottoes along Route 340. Mutual aid agreements with near-by volunteer fire companies ensure the availability of tankers in areas not covered by public water service.”

Second, the Commission agreed to revise the last sentence under the heading “Other Service Considerations” to state:

“In addition, the volunteer Grottoes Rescue Squad, assisted by full-time professionals from the Rockingham County Department of Fire and Rescue and the Augusta County Department of Fire and Rescue, provides medic-level emergency medical response services regardless of political boundaries.”

Mrs. Seefeldt then made a motion that the Report on the Town of Grottoes – County of Augusta Proposed Voluntary Settlement Agreement be approved by the Commission as amended and with the addition of the aerial photograph of the annexation area as another appendix. Her motion was seconded by Mrs. Lawson and unanimously approved by the Commission members present who participated in the review of the agreement. Mr. Hendrix, who was appointed after the Commission began its review of the agreement, did not participate in the review or in the Commission's deliberations, and he abstained from the vote.

III. Commending Resolution for Mrs. Parsons

Ms. Williams referenced a resolution distributed to the members prior to the meeting, which commends Mrs. Parsons for her dedicated service to the Commission. On a motion by Mrs. Lawson, which was seconded by Mrs. Seefeldt, the Commission unanimously adopted the resolution. Mrs. Lawson asked that Mrs. Parsons be invited to the March regular Commission meeting for presentation of the resolution.

IV. Administration

A. Approval of Minutes of November 9, 2009 Meetings

Mrs. Lawson made a motion that the minutes of the Commission's regular meeting of November 9, 2009 as well as those of the oral presentations and public hearing held on the same date be approved. Such motion was seconded by Mrs. Wingo and the Commission unanimously approved the three sets of minutes without amendment.

B. Public Comment Period

The Chairman opened the floor to receive comments from the public. No person appeared to testify before the Commission during the public comment period.

C. Presentation of Financial Statement for December 2009

Referencing an internally produced financial statement that encompassed expenditures through the end of December 2009, Ms. Williams stated that the financial report covered one-half of Fiscal Year 2010 (FY10) and that Commission personnel and non-personnel expenditures for that six-month period represented 54.6% of the total amount budgeted for the fiscal year. The members accepted the report for filing.

D. Local Government Policy Manager's Report

1. Change in Mileage Reimbursement Rate

Ms. Williams announced that, effective January 1, 2010, the mileage reimbursement rate for personally owned vehicles was reduced from 55 cents per mile to 50 cents per mile.

2. Potential Interlocal Issues

Ms. Williams provided a brief update concerning potential interlocal issues involving the Town of New Market – Shenandoah County; the City of Covington – Alleghany County; the City of Bedford – Bedford County and the Town of Clarksville – Mecklenburg County.

She explained that, on November 23, 2009, Alleghany Circuit Court Judge Bo Trumbo appointed Citizens Committees to act in lieu of the governing bodies of the City of Covington and Alleghany County for the purpose of negotiating a consolidation agreement. She indicated that Art Mead with the Weldon Cooper Center will provide

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staff support to the Citizens Committees. Ms. Williams stated that, at the request of Judge Trumbo, she made a presentation on the consolidation process at a joint meeting of the Citizens Committees on December 1.

Ms. Williams stated that, on December 9, 2009, Commission staff was invited to meet with City of Bedford and Bedford County representatives regarding the process of reversion to town status.

Ms. Williams further indicated that, on November 17, the Clarksville Town Council adopted a resolution, which authorizes notice to the Commission on Local Government of a proposed annexation action.

3. Joint Subcommittee Studying Development and Land Use Tools

Ms. Williams reported that the Joint Subcommittee Studying Land Use and Development Tools met most recently on December 4 and will meet next on January 12. She indicated that among the legislation that will be considered by the Joint Subcommittee at their upcoming meeting is a bill that, in part, would require the Commission on Local Government to report on localities' compliance with the statute requiring the designation of urban development areas.

4. Other Activities

Ms. Williams reported that she attended the VML-VACo Legislative Liaisons Annual Retreat on December 17 and will be attending their weekly meetings during the General Assembly Session.

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V. Update on Fiscal Stress Report for 2007/2008

1. Revenue Capacity Per Capita

Mr. Ziony explained that, in measuring revenue capacity at the county and city levels, the Commission has employed the Representative Tax System (RTS) methodology, whose early development can be traced from the U.S. Advisory Commission on Intergovernmental Relations to the University of Virginia and, in turn, to the Joint Legislative Audit and Review Commission. He stated that, with regard to a selected time frame, the RTS approach isolates five resource bases that capture, directly or indirectly, aspects of private-sector affluence which local governments can tap in financing their programmatic objectives. As applied to any given jurisdiction, the computational procedure rests centrally upon the multiplication of each resource-base indicator (e.g., real property true valuation or adjusted gross income) by the associated statewide average rate of return – i.e., the revenue yield to all county and city governments per unit of the stipulated resource. Mr. Ziony indicated that, once the full set of jurisdictional wealth dimensions has been covered by this weighting operation, the five resulting arithmetic products are added to generate a cumulative measure of local capacity, the magnitude of which is then divided by the population total for the designated county or city. The latter calculation engenders a statistic gauging, in per capita terms, the collections which the target jurisdiction would realize from taxes, service charges, regulatory licenses, fines, forfeitures, and various other extractive mechanisms (i.e., potential revenue) if local public officials established resource-base levies at statewide average values.

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Mr. Ziony reported that, according to Table 1, 89.6% of Virginia's localities (i.e., 120) realized per capita gains in fiscal capacity from the end of 2006/2007 through the close of 2007/2008. With respect to these jurisdictions, he explained the tabular evidence indicates that 21 counties and 13 cities, representing 25.4% of the localities statewide, posted double-digit rates of expansion in their revenue-generating potential. Mr. Ziony stated that the strongest increases were manifested by Portsmouth City (23.0%), Bedford County (20.7%), and Essex County (20.5%). He further noted that, over the 2007/2008 period, as Table 1 shows, only 14 jurisdictions – eight counties and six cities – experienced negative capacity “growth” (i.e., reductions in fiscal ability). Mr. Ziony noted that four of these jurisdictions (Prince William County, Fairfax City, Manassas City, and Manassas Park City) were located in Northern Virginia.

2. Revenue Effort

Mr. Ziony explained that the concept of revenue effort focuses on the degree to which county and city governments actually harness the revenue-generating potential of their respective jurisdictions through the employment of locally controlled devices for resource mobilization (e.g., taxes, service charges, and regulatory license fees). He stated that, with respect to a particular locality, the effort dimension operationally takes shape as an extraction/capacity ratio, a statistical mechanism in which the sum of jurisdictional revenues across all "own-source" funding categories is divided by the aggregate fiscal ability of the given county or city. Mr. Ziony noted that, through this indicator, the receipts which the target locality derives from its various private-sector resource bases are gauged in relation to the yield that the jurisdiction could anticipate if local revenue-raising simply reflected the average rates of return for the Commonwealth at large.

Mr. Ziony explained that, while the fiscal effort levels of two jurisdictions (Pulaski County and Poquoson City) climbed at rates exceeding 10% in 2007/2008, the more consequential finding (see Table 2) is that 63 counties and 24 cities (or 64.9% of all localities) registered diminished collections per dollar of fiscal capacity across that time span. He added that revenue effort shrinkage of 10% or greater characterized ten of the negative “growth” jurisdictions (i.e., nine counties and one city), and the steepest rates of decline (-15.4%, -14.4%, and -13.6%) emerged in Amelia County, Bath County, and Sussex County, respectively. Mr. Ziony noted that the effort statistic of a county or city typically undergoes reduction when the locality’s own-source revenues fail to keep pace with the relative growth in its fiscal capacity.

3. Fiscal Stress

Mr. Ziony stated that, as approached by the Commission, the measurement of fiscal stress entails the construction of a three-variable index founded upon chronologically equivalent indicators linked to the most current observation period for which relevant statistics can be obtained across all counties and cities. He explained that, more precisely, the stress index taps jurisdictional measures denoting (1) the level of revenue capacity per capita during a specified fiscal period (currently 2007/2008), (2) the degree of revenue effort over the same time span, and (3) the magnitude of median adjusted gross income for individuals and married couples in the pertinent calendar year (presently 2007). Mr. Ziony indicated that, with respect to each of these factors, any given county or city is assigned a relative stress score establishing the distance, in standard deviation units, of the target locality's raw score from the mean of the overall data distribution. He explained that the foregoing "transformation" procedure ensures the

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imposition of a common statistical gauge upon the several constituent dimensions of the index. Under the computational technique employed by the Commission, the three relative stress values associated with a particular jurisdiction are added to produce an integrated expression of its fiscal strain during the selected measurement period (in the current instance, 2007/2008). Mr. Ziony indicated that the higher the magnitude of this summary statistic, the greater the fiscal duress experienced by the specified county or city. He noted that the composite index score, though not an absolute indicator of financial hardship at the local level, identifies the standing of the designated jurisdiction in relation to every other county or city throughout Virginia.

Mr. Ziony reported that, as documented by Table 3, the stress index levels of most localities were highly stable between 2006/2007 and 2007/2008. On this point, the data reveal that 118 jurisdictions posted inter-period differences of less than two points in absolute magnitude. Mr. Ziony indicated that, during the most recent computational round, 84 of the latter entities registered index values that deviated from their 2006/2007 levels by less than one point, and 94.8% of Virginia's localities (see Tables 4 and 5) retained their 2006/2007 index classifications over the course of 2007/2008. Mr. Ziony commented that only seven jurisdictions shifted from one class to another on the four-category scale, and each of the positional movements was confined to an immediately adjacent category.

Mr. Ziony reported that, more importantly, Tables 4 and 5 reveal that the top and bottom ranges of the stress index continuum exhibited sharp compositional differences along jurisdictional class lines during 2007/2008. He indicated that, with respect to the

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23 localities at the “high” end of the data series, 78.3% (i.e., 18) were cities, and, among the 22 “low stress” jurisdictions, counties represented 86.4% (i.e., 19) of the total.

For illustrative purposes, Mr. Hendrix pointed out that Bath County’s fiscal index score dropped from 143.35 to 139.80 since the last fiscal stress computational period, though the county continued to be classified as “low stress.” He asked Mr. Ziony for the reasons behind this change in score and further indicated that it would be helpful to have such information to accompany the statistics presented in the various tables produced in conjunction with the computations. Mr. Ziony responded that Bath County, like the Counties of Amelia and Sussex, had experienced a sharp decline in revenue as a result of the fact that the total revenues of the locality had fallen as the fiscal capacity, the weighted resource-base strength of the locality, had risen.

A brief discussion ensued regarding the additional resources that would be required to accomplish such a task, and Mrs. Lawson proposed that localities could be surveyed and case studies constructed for a limited number of jurisdictions and included as an addendum to the annual report. Mrs. Seefeldt agreed that a couple of illustrations would be helpful. The discussion continued, and Ms. Williams indicated that the annual Report on Comparative Revenue Capacity, Revenue Effort and Fiscal Stress will be ready for presentation to the Commission at the March 8 regular meeting, and the narrative contained in that report as well as the illustrative computations included in the report’s exhibits may help to address some of their concerns.

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VI. 2010 General Assembly Session

1. Fiscal Impact Analysis Process

Ms. Williams reported that, thanks to the recruitment efforts of VML and VACo, 36 localities volunteered to assist the Commission with the preparation of fiscal impact estimates this year: ten cities; two towns; and 24 counties. She noted that 32 localities participated in the process in 2009. Ms. Williams stated that, to date, the Division of Legislative Services (DLS) has referred one bill to the Commission for analysis. At the request of VML and VACo, DLS referred HB 109, which, in part, would repeal local authority to impose a \$25 license tax on persons engaged in the business of selling pistols and revolvers.

2. Bills of Interest and Legislative Action Summaries (LASs)

Ms. Williams stated that only 409 bills had been introduced so far. She explained that the pre-file deadline for legislation is 10:00 AM on January 13, the day that the Session convenes. She commented that, after the deadline, there are limits on the number of bills that each member can introduce – delegates are limited to five bills and joint resolutions and senators are limited to eight. In response to an inquiry from Mr. Bannister, she told the Commission that a total of 2,577 bills were introduced in 2009; 3,323 in 2008; and 3,069 in 2007. Ms. Williams indicated that, to date, Commission staff has prepared ten LASs.

VII. Scheduling of Regular Meetings

The Commission confirmed that its next regular meeting is scheduled to take place on Monday, March 8, 2010 at 10:00 a.m. Regular meetings for the remainder of 2010 were scheduled at 10:00 a.m. as follows: May 10; July 12; September 13; and

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November 15. Commission members reiterated their preference for meeting at the VHDA Housing Center in Glen Allen, and Ms. Williams indicated that she would inquire as to the availability of the meeting space on those dates.

VIII. Adjournment

There being no further business to come before the Commission, the meeting was adjourned at 12:55 p.m.

Harold H. Bannister, Jr.
Chairman

Susan B. Williams
Local Government Policy Manager